

**THIS CONTRACT IS SUBJECT TO ARBITRATION PURSUANT TO
THE MONTANA UNIFORM ARBITRATION ACT**

1. PARTIES

The Montana Department of Corrections (DEPARTMENT) and **Blue Cross and Blue Shield of Montana, Inc. (CONTRACTOR or BCBSMT)** enter into this Contract (#03-004-CSD). The parties names, addresses, telephone numbers, and Federal Employee Identification Number (Contractor only) is as follows:

Montana Department of Corrections
Centralized Services Division
1539 11th Avenue
PO Box 201301
Helena, MT 59620 -1301
(406) 444-3930

Blue Cross Blue Shield of Montana
560 Park Avenue
Helena, MT 59604
(406) 444-8273

DEPARTMENT AND CONTRACTOR, AS PARTIES TO THIS CONTRACT AND FOR THE CONSIDERATION SET FORTH BELOW, AGREE AS FOLLOWS:

2. DUTIES/RESPONSIBILITIES OF THE CONTRACTOR

CONTRACTOR agrees to provide the following services:

A. CLAIMS ADMINISTRATION

CONTRACTOR shall review and accurately process all submitted claims for medical services rendered to inmates under the care and custody of DEPARTMENT. Claims shall be approved for payment in accordance with CONTRACTOR'S standard medical policy and DEPARTMENT reimbursement policies. DEPARTMENT shall resolve all ambiguities and disputes relating to eligibility, coverage, denial of claims or any other questions of interpretation.

DEPARTMENT will provide CONTRACTOR with current copies of its health services contracts and related fee schedules at least 30 days prior to the contract implementation date or fee schedule modification. CONTRACTOR will have up to 30 days, unless mutually agreed otherwise, to implement each contract fee schedule modification and agrees not to withhold payment of claims for failure to implement the required schedule within this 30-day period. CONTRACTOR shall not process claims associated with DEPARTMENT contracts unless a copy of the current contract is on file with CONTRACTOR.

CONTRACTOR shall provide a copy of its Annual Report to DEPARTMENT. In addition, CONTRACTOR will allow DEPARTMENT, or its' contracted agent, to perform a claims audit specific to DEPARTMENT claim needs and at DEPARTMENT expense. These audits are intended to provide assurance that CONTRACTOR has sufficient internal controls in place regarding the claims processing.

B. BILLING AND PAYMENT OF CLAIMS

1. CONTRACTOR shall review all submitted claims and pay all approved "clean" claims within forty-five (45) days of receipt of said claims. Only claims submitted to CONTRACTOR within two (2) years of date of service shall be processed.
2. For billing purposes, CONTRACTOR shall provide DEPARTMENT with a weekly payment register of all processed claims. DEPARTMENT shall reimburse

CONTRACTOR for all paid claims within fourteen (14) days after receipt of said payment register.

3. It is DEPARTMENT'S responsibility to notify CONTRACTOR of the primary insurance and also notify CONTRACTOR when the primary insurance is no longer active. It is CONTRACTOR'S responsibility to coordinate benefits in the processing of claims for any offender who has other primary insurance. It is DEPARTMENT'S responsibility to provide receipt of the Coordination of Insurance Benefits form. CONTRACTOR will initiate coordination of benefits. DEPARTMENT agrees that claims submitted and processed prior to receipt of the Coordination of Insurance Benefits form will not be reprocessed.

C. ACCESS TO PHYSICIAN NETWORK

CONTRACTOR agrees to provide DEPARTMENT with access to its member physician network and the service discounts and balance billing features of the network.

D. INPATIENT HOSPITAL CERTIFICATION REVIEW

Certification review requires CONTRACTOR, through its designated agent APS Healthcare (APS) or other designated agent upon written notification to DEPARTMENT, to determine that a scheduled admission or unscheduled emergency admission is medically necessary and that each day of a hospital stay is medically necessary. Certification review will be provided for each admission of an inmate under the care and custody of DEPARTMENT, at all Montana hospitals, unless DEPARTMENT notifies CONTRACTOR that review is not necessary – as in the case of confirmed Medicaid covered admissions.

APS, or other designated agent, will use nationally recognized utilization review criteria to certify hospital admissions and hospital stays as medically necessary. Registered nurses will perform the preliminary review. The DEPARTMENT Medical Director, or designated medical doctors, along with APS personnel will perform review of cases not meeting medical necessity criteria. Review procedures unique to the circumstances involving the Corrections Medical Program will be developed and utilized by CONTRACTOR in compliance with Title 33, Chapter 32, MCA. Provider charges associated with certified inpatient days will be paid according to DEPARTMENT policies and/or fee limit contracts in effect between DEPARTMENT and the hospital. Charges associated with non-certified inpatient days will be paid as though the services were provided in an outpatient setting.

The DEPARTMENT Medical Director and/or Medical/Mental Health Case Manager will assist with reviews and authorization of treatment and discharge plans - when medically appropriate and cost-effective.

To facilitate review and certification at each of its facilities, DEPARTMENT will designate an individual responsible for notifying CONTRACTOR of all admissions. APS will receive prior notification of a scheduled admission and will receive notice of an emergency admission with 24 hours of the admission or, on the first working day after admission. In addition, DEPARTMENT will notify all Montana hospitals that offender admissions will require certification from APS.

E. OTHER ADVICE AND ASSISTANCE

During the term of this Contract, CONTRACTOR will provide DEPARTMENT staff with advice and recommendations concerning additional or alternative methods of managing DEPARTMENT medical costs. Significant modifications to the scope of services of this Contract will be set forth in writing, signed by both parties, and executed by Amendment to this Contract. Such amending agreement may result in negotiation of compensation.

F. REPORTING

CONTRACTOR agrees to provide reporting as identified in Attachment A. Significant customization of the established reporting package shall be subject to negotiation and agreement

in writing. Reports are due to DEPARTMENT within 45 days following the end of each quarter. Year-end reporting, which includes claims run-out information, is due 120 days following the end of the Fiscal Year.

G. CONFIDENTIALITY OWNERSHIP

CONTRACTOR shall own all data, used or generated by it in its services for DEPARTMENT, and shall have the right to retain copies of any documents provided it by DEPARTMENT. DEPARTMENT and CONTRACTOR agree to hold in confidence, to neither use nor disclose, and to prevent disclosure to third parties of confidential or proprietary information it has received from the other including medical, financial, and personal information reviewed and collected in connection with the services rendered, reports generated hereunder, and applicable procedure compensation, except as otherwise provided by law. CONTRACTOR agrees that upon demand by DEPARTMENT or upon termination of this Contract, it will transfer to DEPARTMENT or their designee, to the extent allowed by law, copies of requested partially or fully completed work products, records or data, including data on computer files, which were produced or compiled under the terms of this Contract. Such transfer will be in a manner and format that will not compromise the proprietary interest of CONTRACTOR, any of its subcontractors, or any of its software licensors.

H. STATUTORY COMPLIANCE

Each party agrees to comply with all applicable state and federal laws related to statutory protected information, including but not limited to private health care information, that are in effect at the time of execution of this Contract or at any time during its term, including but not limited to (to the extent applicable), the Montana Insurance Information and Privacy Protection Act (Title 33, chapter 19 of the Montana Code Annotated) and the HHS Privacy Regulations (Code of Federal Regulations at Title 45, Section 164, Subpart E).

The parties agree to review and amend this Contract at any time when such modification is necessary to comply with any state or federal law or regulation related to the protection of statutory protected information, including private healthcare information.

3. COMPENSATION/BILLING

DEPARTMENT shall compensate CONTRACTOR for successful delivery of services provided pursuant to Section 2, in the following manner:

- A. CONTRACTOR will be compensated at the rate of **\$6.16** (six dollars and 16/100) per member, per month, retroactive to July 1, 2002.
 - i. This rate will be charged monthly for all “secure bed” (prison) inmates. Inmates on hold in a County jail (jail-hold) and prerelease residents will only be included under the compensation terms for months in which claims were received and processed.
- B. **Client-specific reporting** will be compensated at the rate of **\$65.00** (sixty-five dollars and 00/100) per hour. Client-specific reporting consists of additional ad hoc reports or significant customized changes requested by DEPARTMENT that are not listed in the quarterly reports on Exhibit A. This fee shall only be assessed in situations when CONTRACTOR has to create new reporting measurements or substantially alter current reporting capabilities.
- C. **Consulting Services** will be compensated at the rate of \$95.00 (ninety-five dollars and 00/100) per hour. Consulting Services consist of additional CONTRACTOR staff resource time where significant reporting modifications are requested by DEPARTMENT.

- D. DEPARTMENT agrees to pay CONTRACTOR within 30 days of receipt of a properly completed invoice.
- E. DEPARTMENT may withhold payments to CONTRACTOR if CONTRACTOR has not performed in accordance with the terms of this Contract.
- F. The Contract number must be referenced on all invoices and correspondence pertaining to this Contract.

4. AGENCY ASSISTANCE

To the extent possible, CONTRACTOR shall use its own facilities and equipment in providing the services set forth in Section 2. However, the parties recognize that services provided to DEPARTMENT may occur within the confines of a secure correctional facility necessitating the use of DEPARTMENT facilities and equipment including, but not limited to, access to inmate records, work space within a correctional facility, and telephone service (e.g., Montana State Prison does not allow wireless phones within facility).

5. TIME OF PERFORMANCE

This Contract shall take effect upon receipt of the final Contract signature and shall terminate on June 30, 2003, unless terminated earlier in accordance with the terms of this Contract. This Contract may, upon mutual agreement and according to the terms of the existing Contract, be renewed for a period not to exceed a total of five (5) additional years.

6. LIAISONS AND NOTICE

- A. Julie Reardon, R.N. (444-9894), 1539 11th Avenue, Helena, MT 59620, or successor, serves as DEPARTMENT'S liaison for all matters concerning appropriate delivery of health care services and Contract related issues.
- B. Linda Orth (444-8273), 560 Park Avenue, Helena, MT 59604, or successor, serves as CONTRACTOR'S liaison.
- C. All notices and invoices required in this Contract shall be in writing, properly addressed to the liaison in (A) and (B) above, mailed first-class, postage prepaid. All notices sent via U.S. Postal Service are deemed effective on the date of postmark. Notices and invoices mailed through another carrier (e.g., UPS or FedEx) are effective upon receipt.

7. OWNERSHIP AND PUBLICATION OF MATERIALS

Except as provided in Section 2(G), all materials CONTRACTOR develops or utilizes (i.e., reports, spreadsheets, etc.) in performing the services set forth in Section 2 above shall be the sole property of DEPARTMENT.

8. COMPLIANCE WITH WORKERS' COMPENSATION ACT

Neither CONTRACTOR nor its employees are employees of the State. In accordance with sections 39-71-120, 39-71-401, and 39-71-405, MCA, Contractors are required to comply with the provisions of the Montana Workers' Compensation Act while performing work for the State of Montana.

CONTRACTOR shall provide proof of compliance in the form of workers' compensation insurance, an independent contractor exemption, or documentation of corporate officer status and maintain such insurance, exemption, or corporate officer status for the duration of the contract. CONTRACTOR shall submit a copy of all renewals of expired insurance and exemptions to: Department of Corrections, Fiscal Bureau, Attn: Contracts Manager, PO Box 201301, Helena, MT 59620-1301.

9. HOLD HARMLESS AND INDEMNIFICATION

- A. CONTRACTOR will indemnify and hold DEPARTMENT harmless from and against any and all claims, suits, actions, liabilities, losses, penalties, or damages including court costs and reasonable attorney's fees, which result from or arise out of the negligent acts or omissions or willful misconduct of CONTRACTOR or its employees with respect to the services to be provided by CONTRACTOR under this Contract, except for any acts taken at the direction of DEPARTMENT.
- B. DEPARTMENT will indemnify, defend, save, and hold CONTRACTOR harmless from and against any and all claims, suits, actions, liabilities, losses, penalties, or damages including court costs and reasonable attorney's fees, which result from or arise out of any responsibility, duty or obligation of DEPARTMENT, except to the extent such claims, suits, actions, liabilities, losses, penalties, or damages arise out of the negligent acts or omissions or willful misconduct of CONTRACTOR or its employees with respect to the services to be provided by CONTRACTOR under this Contract..
- C. Neither party shall be liable or responsible for the other party's failure to comply with state or federal laws

10. INSURANCE

Contractor shall procure and maintain such insurance as is currently required under applicable federal and state law. Such insurance shall include errors and omissions insurance of officers and directors, workers' compensation, and unemployment insurance.

11. ACCESS AND RETENTION OF RECORDS

CONTRACTOR agrees to provide DEPARTMENT, the Legislative Auditor, or their authorized agents with access to any records necessary to determine Contract compliance (Ref. 18-1-118, MCA). CONTRACTOR agrees to create and retain all records supporting the services rendered and/or supplies delivered for a period of three years after either the completion date of this Contract or the conclusion of any claim, litigation, or exception relating to this Contract taken by the State of Montana or a third party.

12. PUBLIC INFORMATION

CONTRACTOR recognizes that this Contract may be subject to public inspection pursuant to Article 2, § 9 of the Montana Constitution. DEPARTMENT has a limited ability to assert a privacy interest in the subject matter of the Contract particularly with respect to information which is in the nature of a "trade secret" as the phrase is defined in federal law. In any event, CONTRACTOR agrees to hold DEPARTMENT harmless from any injury caused, in whole or in part, by the review of this agreement by an entity authorized to do so pursuant to Article 2, § 9 of the Montana Constitution.

13. ASSIGNMENT, TRANSFER AND SUBCONTRACTING

CONTRACTOR shall not assign, sell, transfer, subcontract or sublet rights, or delegate duties under this Contract, in whole or in part, without the prior written approval of DEPARTMENT. No such written approval shall relieve CONTRACTOR of any obligation of this Contract and any transferee or subcontractor shall be considered the agent of CONTRACTOR. CONTRACTOR shall remain liable as between the original parties to the Contract as if no such assignment had occurred.

14. AMENDMENTS

All amendments to this Contract shall be in writing and signed by the parties.

15. COMPLIANCE WITH LAWS

Except as provided herein, neither party shall assign, sell, transfer, subcontract or sublet rights, or delegate duties under this Contract, in whole or in part, without the prior written approval of the other party. No such written approval shall relieve the assigning, selling, transferring, subcontracting, subletting or delegating party of any obligations of this Contract and any transferee or subcontractor shall be considered the agent of the approved party. The approved party shall remain liable as between the original parties to the Contract as if no such assignment had occurred. CONTRACTOR may subcontract or delegate those duties related to inpatient hospital certification review, as set forth in Section 2(D), without DEPARTMENT'S prior review and approval. CONTRACTOR shall provide written notice to DEPARTMENT of the name of the entity to which the duties will be assigned or delegated and shall update DEPARTMENT if the named entity changes during the term of this Contract.

16. TERMINATION AND DEFAULT

- A. If CONTRACTOR fails to perform in accordance with the terms of this Contract (hereinafter referred to as an "event of noncompliance" and fails to cure such event of noncompliance within thirty (30) days after receipt of written notice of such event of noncompliance from DEPARTMENT, DEPARTMENT may thereafter withhold payments then due and owing to CONTRACTOR until CONTRACTOR cures such event of noncompliance; provided, however, if the event of noncompliance is such that it cannot be cured within the thirty (30) day period, CONTRACTOR shall not be deemed in noncompliance and DEPARTMENT shall not withhold payments if CONTRACTOR commences curative action within the thirty (30) day period, and thereafter diligently pursues such curative action.
- B. Either party may terminate this Contract without cause by providing written notice to the other as described in this paragraph. The party desiring to terminate the Contract shall provide written notice to the other, which notice will establish a termination date not less than 30 days from the date of such notice. The termination of this Contract shall not limit any party's pursuit of remedies provided in this Contract or otherwise available under the laws of the State of Montana.
- C. DEPARTMENT, at its sole discretion, may terminate or reduce the scope of this Contract if available funding is reduced for any reason, as exercised in good faith.
- D. Failure on the part of either party to perform the provisions of this Contract constitutes default. Default may result in pursuit of a remedy for breach of Contract including, but not limited to, monetary damages or specific performance.

17. CHOICE OF LAW AND VENUE

The laws of Montana govern this Contract. The parties agree that any mediation, arbitration or litigation concerning this Contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees (Ref. 18-1-401, MCA).

18. LICENSURE

CONTRACTOR agrees to provide copies of current licenses and certifications that register CONTRACTOR and any associates performing under this Contract.

19. ARBITRATION

Any Claim arising out of, or related to, this Contract shall be settled by binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association. Judgment on the award rendered by the Arbitrator may be entered in any court having jurisdiction thereof.

20. INTEGRATION

This Contract contains the entire agreement between the parties and no statement, promises, or inducements made by either party or agents thereof, which are not contained in the written Contract, shall be binding or valid. This Contract shall not be enlarged, modified, or altered except upon written agreement signed by all parties to the Contract.

21. SEVERABILITY

A declaration by any court, or any other binding legal source, that any provision of this Contract is illegal and void shall not affect the legality and enforceability of any other provision of this Contract, unless the provisions are mutually dependent.

22. ASSOCIATION RELATIONSHIP

DEPARTMENT hereby expressly acknowledges its understanding that this Contract constitutes a contract solely between DEPARTMENT and BCBSMT, which is an independent corporation operating under a license from the Blue Cross and Blue Shield Association, an association of independent Blue Cross and Blue Shield Plans (the "Association") permitting BCBSMT to use the Blue Cross and Blue Shield Service Mark(s) in the State of Montana, and that BCBSMT is not contracting as the agent of the Association. DEPARTMENT further acknowledges and agrees that it has not entered into this Contract based upon representations by any person other than BCBSMT and that no person, entity or organization other than BCBSMT shall be held accountable or liable to DEPARTMENT for any of BCBSMT's obligations to DEPARTMENT created under this Contract. This paragraph shall not create any additional obligations whatsoever on the part of BCBSMT other than those obligations created under other provisions of this Contract

23. COMPLETED CONTRACT

DEPARTMENT cannot disburse any payments under this Contract until a fully executed original Contract is returned to the Department of Corrections, Fiscal Bureau, PO Box 201301, 1539 11th Avenue, Helena, MT 59620-1301.

SIGNATURE

DEPARTMENT

CONTRACTOR

Mike Mahoney, Warden
Montana State Prison

Mark Burzynski
Vice President, Health Care Management
Blue Cross Blue Shield of Montana

Date

Date

Approved for Legal Content by:

Legal Counsel
Department of Corrections

Date

ATTACHMENT A
REPORTING REQUIREMENTS

CONTRACTOR shall provide DEPARTMENT with the following quarterly reports:

A. Department of Correction Claims Utilization

1. Department of Corrections Executive Summary.
2. APS Review Summarization.
3. Summary of Inpatient Admissions by Patient Location by Provider.
4. Summary of Facility Outpatient Utilization by Provider by Location.
5. Summary of Professional Utilization by Location.
6. Summary of Expenditures by Age Group, by Location.
7. Summary of Professional Expenditures.
8. Summary of Facility Expenditures.
9. Summary of Professional Utilization by Location with Provider Detail Summary.
10. Group (location) Claims Report by Offender.
11. Analysis of Claims by Type of Service for Cases Greater than \$25,000.
12. Executive Summaries only for Montana State Prison, Montana Women's Prison, and Pine Hills Youth Correctional Facility.
13. Payment register of all processed claims.

**CONTRACT AMENDMENT
CONTRACT #03-004-CSD**

THIS CONTRACT AMENDMENT (**Amendment #1**) is made and entered into by and between the Montana Department of Corrections (DEPARTMENT) 1539 11th Ave., Helena, Montana 59620-1301 and **Blue Cross and Blue Shield of Montana, Inc.** (CONTRACTOR) 560 Park Avenue, Helena MT 59604 and is effective upon receipt of all signatures.

WHEREAS, the parties have entered a Contract with an original effective date of March 27, 2003 and Section 20 provides that the parties may modify their agreement in writing; and

WHEREAS, the Contract expires on June 30, 2003 and Section 5 provides that the parties may extend the expiration date of the Contract.

NOW THEREFORE, the parties agree as follows:

Section 5 is amended to read (new language underlined, old language interlined):

TIME OF PERFORMANCE

This Contract shall take effect upon receipt of the final Contract signature and shall terminate on June 30, ~~2003~~ 2004, unless terminated earlier in accordance with the terms of this Contract. This Contract may, upon mutual agreement and according to the terms of the existing Contract, be renewed for a period not to exceed a total of ~~five (5)~~ four (4) additional years.

This constitutes the Amendment to the Contract. All other provisions contained in the original Contract, as amended, shall remain unchanged.

DEPARTMENT

Mike Mahoney, Warden
Montana State Prison

Date

CONTRACTOR

Mark Burzynski, Vice President, Health Care Management
Blue Cross Blue Shield of Montana

Date

Reviewed for Legal Content by:

Legal Counsel
Department of Corrections

Date

CONTRACT AMENDMENT
CONTRACT #03-004-CSD

THIS CONTRACT AMENDMENT (**Amendment #2**) is made and entered into by and between the Montana Department of Corrections (DEPARTMENT) PO Box 201301, 1539 11th Avenue, Helena MT 59620-1301 and **Blue Cross and Blue Shield of Montana, Inc.** (CONTRACTOR) 560 Park Avenue, Helena, MT 59604 and is effective upon receipt of all signatures.

WHEREAS, the parties have entered a Contract with an original effective date of March 27, 2003 and Section 20 provides that the parties may modify their agreement in writing.

WHEREAS, the Contract expires on June 30, 2004 and Section 5 provides that the parties may extend the expiration date of the Contract

NOW THEREFORE, the parties agree to amend the Contract as follows:

Section 5 and 6 are amended to read (new language underlined, old language interlined):

5. TIME OF PERFORMANCE

This Contract shall take effect upon receipt of the final Contract signature and shall terminate on June 30, ~~2004~~ 2005, unless terminated earlier in accordance with the terms of this Contract. This Contract may, upon mutual agreement and according to the terms of the existing Contract, be renewed for a period not to exceed a total of ~~four~~ (4) three (3) additional years.

6. LIAISONS AND NOTICE

D. ~~Julie Reardon, R.N.~~ Laura Janes, R.N. (444-9894), 1539 11th Avenue, Helena, MT 59620, or successor, serves as DEPARTMENT'S liaison for all matters concerning appropriate delivery of health care services and Contract related issues.

This constitutes the Amendment to the Contract. All other provisions contained in the original Contract, as amended, shall remain unchanged.

DEPARTMENT

Mike Mahoney, Warden
Montana State Prison

Date

CONTRACTOR

Mark Burzynski, Vice President, Health Care Management
Blue Cross Blue Shield of Montana

Date

Reviewed for Legal Content by:

Legal Counsel
Department of Corrections

Date

CONTRACT AMENDMENT
CONTRACT #03-004-CSD

THIS CONTRACT AMENDMENT (**Amendment #3**) is made and entered into by and between the Montana Department of Corrections (DEPARTMENT) 1539 11th Ave., Helena, Montana 59620-1301 and **Blue Cross and Blue Shield of Montana, Inc.** (CONTRACTOR) 560 Park Avenue, Helena Montana 59604 and is effective upon receipt of all signatures.

WHEREAS, the parties have entered a Contract with an original effective date of March 27, 2003 and Section 20 provides that the parties may modify their agreement in writing; and

WHEREAS, the Contract expires on June 30, 2005 and Section 5 provides that the parties may extend the expiration date of the Contract.

NOW THEREFORE, the parties agree to amend the Contract as follows (**new language underlined, old language interlined**):

5. TIME OF PERFORMANCE

This Contract shall take effect upon receipt of the final Contract signature and shall terminate on June 30, ~~2005~~ 2006, unless terminated earlier in accordance with the terms of this Contract. ~~This Contract may, upon mutual agreement and according to the terms of the existing Contract, be renewed for a period not to exceed a total of three (3) additional years.~~

Upon expiration of this Contract, and in the absence of new written agreement, the terms listed herein shall continue to govern the agreement between the parties until such time as a new Contract is signed.

This constitutes the Amendment to the Contract. All other provisions contained in the original Contract, as amended, shall remain unchanged.

DEPARTMENT

Mike Mahoney, Warden
Montana State Prison

Date

CONTRACTOR

Mark A. Burzynski, Vice President, Health Care Management
Blue Cross and Blue Shield of Montana, Inc.

Date

Reviewed for Legal Content by:

Legal Counsel
Department of Corrections

Date